


CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)			Docket No.
Applicant(s): Roberto Ayala, et al.			YOR920010275US1
Application No.	Filing Date	Examiner	Group Art Unit
09/909,686	July, 20, 2001	Maria Theresa T. Thein	3627
Invention: A METHOD FOR DYNAMICALLY EVALUATING PROJECTED DAYS OF SUPPLY OF INVENTORY LEVELS IN A SUPPLY CHAIN			
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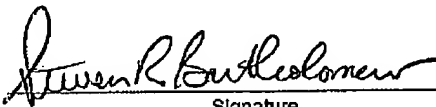
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) YOR920010275US1	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR		Application Number 09/909,686	Filed 07/20/2001
on _____		First Named Inventor Roberto Ayala	
Signature _____		Art Unit 3627	Examiner Maria Theresa T. Thein
Typed or printed name _____			
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		_____ Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number 34,771		(860) 286-2929 Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		_____ Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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YOR920010275US1 (CC Ref. # I31-0005)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No.: 09/909,686 : Confirmation No.: 9950
Applicants: Roberto Ayala et al : Group Art Unit: 3627
Filed: 07/20/2001 : Examiner: Maria Theresa T. Thein
Docket No.: YOR920010275US1 (CC Ref. # I31-0005)
For: A METHOD FOR DYNAMICALLY EVALUATING PROJECTED DAYS OF
SUPPLY OF INVENTORY LEVELS IN A SUPPLY CHAIN

July 5, 2007

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed concurrently with a Notice of Appeal. This review is requested for the reason(s) stated on the attached sheet(s), which do not exceed more than five (5) pages.

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REMARKS

In response to the Final Office Action dated April 6, 2007, Applicants respectfully request reconsideration based upon the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Status of Claims

Claims 1-7, 9-23 and 25-34 are pending.

Rejections Under 35 U.S.C. §103(a)

Claims 1-2, 6-7, 9-10, 13-18, 22-23, 25-26, and 29-32 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,006,196 to Feigin et al. in view of U.S. Statutory Invention Registration No. H1743 to Graves et al. Claims 3-5, 11-12, 19-21, 27-28, and 33-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,006,196 to Feigin et al. and U.S. Statutory Invention Registration No. H1743 to Graves et al as applied to claims 1 and 17, and further in view of U.S. Patent Application Publication No. 2002/0072986 to Aram.

The Applicants submit that the rejections of claims 1-2, 6-7, 9-10, 13-18, 22-23, 25-26, and 29-32 are in error because the Examiner has not met the burden of establishing a *prima facie* case of obviousness, thus contravening the provisions of 35 U.S.C. §103.

The Applicants submit that there is clear error in the outstanding rejections under 35 U.S.C. §103(a) because the combination of cited references do not teach or suggest all of the claim limitations. With respect to independent claims 1 and 17, the Examiner states on page 2 of the Office Action that Feigin teaches "*selecting a search criteria for determining projected days of supply*", citing column 3, lines 19-25 and column 5, lines 39-43 of Feigin for support. However, column 3, lines 19-25 and column 5, lines 39-43 of Feigin refer to Distribution Resource Planning (DRP) logic based upon a set of recursive equations that characterize inventory dynamics over time. The passages cited by the Examiner merely describe an algorithm for recursively calculating replenishment requirements, on-hand inventory, and backordered demand for a specific product at a specific location. There is simply no teaching or suggestion in Feigin that the specific

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product is selected by means of search criteria. Thus, there is clearly no support anywhere in the Feigin reference of using search criteria to select a specific product.

With respect to independent claims 1 and 17, the Examiner states on page 3 of the Office Action that, although Feigin fails to disclose *"extracting current data related to said search criteria"*, Graves teaches the foregoing limitation. The Examiner cites column 10, line 59-column 11, line 9; column 14, lines 5-13; and column 17, lines 28-59 in support of this contention. However, the passages cited by the Examiner merely disclose comparing a projected storage tank level to an actual level once every three hours. If the difference between the actual level and the projected level exceeds a predetermined threshold, then the projected level is recalculated using the last three hour flow rate, and a facsimile message reflecting an amended delivery schedule is generated. There is simply no teaching or suggestion in Graves relating to a search criteria and, consequently, there is no teaching or suggestion that current data related to the search criteria are extracted. Thus, there is clearly no support anywhere in the Graves reference of *"extracting current data related to said search criteria"*.

Therefore, Feigin in view of Graves do not render claims 1 and 17 obvious because they fail to teach, suggest, or render obvious at least the elements *"selecting a search criteria for determining projected days of supply"* and *"extracting current data related to said search criteria"*, as recited in claims 1 and 17.

Dependent claims 2, 6-7, 9-10, 13-16, 18, 22-23, 25-26, and 29-32 were rejected under 35 U.S.C. §103(a) as being unpatentable over Feigin in view of Graves. Applicants submit that claims 2, 6-7, 9-10, and 13-16 are allowable at least because they depend from claim 1 which is believed to be an allowable claim for the reasons described above. Applicants further submit that claims 18, 22-23, 25-26, and 29-32 are allowable at least because they depend from claim 17 which is believed to be an allowable claim for the reasons described above.

Claims 3-5, 11-12, 19-21, 27-28, and 33-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,006,196 to Feigin et al. and U.S. Statutory Invention Registration No. H1743 to Graves et al as applied to claims 1 and 17, and further in view of U.S. Patent Application Publication No. 2002/0072986 to Aram. Applicants submit that claims 3-5, 11-12 and 33 are allowable at least because they

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depend from claim 1 which is believed to be an allowable claim for the reasons described above. Applicants further submit that claims 19-21, 27-28, and 34 are allowable at least because they depend from claim 17 which is believed to be an allowable claim for the reasons described above.

Summary

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Applicants respectfully submit that the final rejection of Claims 1-7, 9-23 and 25-34 should be overturned because the final rejection is in error and should be reversed. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' attorney hereby authorizes that such fee be charged to Deposit Account No. 09-0463.

Respectfully submitted,
CANTOR COLBURN LLP

Applicant's Attorneys

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Dated this 6th day of July 2007

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